

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5315 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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DEVANG N NANAVATI

Versus

STATE OF GUJARAT

Appearance:

MR MD RANA for Petitioners.

Mr. U.R. Bhatt, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 20/07/2002

ORAL JUDGEMENT

The petitioners, in this petition filed under Article 226 of the Constitution of India, have challenged the impugned order dated 9th May 1988 issued by the Director, Gujarat State Forensic Science Laboratory, New Mental Corner, Ahmedabad, addressed to the Deputy Director, Regional Forensic Science Laboratory,

Junagadh/Surat stating that by virtue of the judgment of this Court in the case of Shri D.C. Pandya, he has been given the pay-scale of Rs. 425-700 and the said benefit of pay-scale cannot be made over to the storekeepers working at Junagadh and Surat and hence there was no question of any reconsideration.

2. The petitioner has further made the prayer for implementation of the order and judgment of this Court passed in Special Civil Application No. 3431 of 1980 on 2nd February 1984, allowing the writ petition filed by the said Shri D.C. Pandya for revision of pay-scale of Rs. 425-700 with effect from the date on which the pay-scales of other employees were revised. For seeking the relief in this petition, the petitioner has relied on the following directions issued by this Court in the case of Shri D.C. Pandya :

"In the result, the petition is allowed. The Respondents are directed to revise the pay-scale of the post of Storekeeper of Forensic Science Laboratory to Rs. 425/700 from the date the post was created. The respondents are directed to place the petitioner in the said revised pay-scale from the date of his appointment to the said post, fix the pay accordingly and pay the difference of salary and other monetary benefits payable to him on the basis of the said revised pay-scale within 3 months from the receipt of writ of this Court."

3. The petitioners have further submitted in the petition that after the judgment of this Court in the case of Shri D.C. Pandya, the Government passed the resolution giving the benefit of the pay-scale only to the petitioners in that Special Civil Application leaving aside the issue of according benefit of giving pay-scales to employees serving in the same department. The petitioners have further submitted that the representations were made by them to the Government from time to time but there was no reply to the said representations and the only reply which was received was the reply dated 9.5.1988 given by the Director of Gujarat State Forensic Science Laboratory to the Deputy Director, Regional Forensic Science Laboratory, Junagadh/Surat and copy whereof was endorsed to the petitioners. The petitioners have further submitted that it was the bounden duty of the respondents to give the benefit of the revised pay-scales to the petitioners who perform the same duties and bearing in mind the fact that pursuant to the order and judgment of this Court, the Government has

already granted benefit to one of the storekeepers.

4. The petitioners have further submitted that they were appointed legally under the Recruitment Rules, framed under the Gujarat State Forensic Science Rules, 1976 in the month of October 1982 and in the month of April 1983 respectively. It was further submitted that the respondent authorities were bound to give effect of old pay-scale of Rs. 425-700 instead of putting in the pay-scale of Rs. 330-560 and consequent revision effected which according to the petitioners came to about Rs. 1400-2300 which was the pay-scale effected and implemented at the time of filing of the petition.

5. The petitioners have further submitted that the post of Storekeeper in the Forensic Science Laboratory was created in the pay-scale of Rs. 200-10-250-EB-12-310 after the Second Pay Commission submitted its report on or after the proceedings before it were concluded. The question of pay-scale of Storekeeper in the Forensic Science Laboratory did not, therefore, come for consideration before the Second Pay Commission. When the question of pay-scale of Storekeeper was considered by the Second Pay Commission, there were numerous designations and pay-scales of classes of the employees who were employed as, or were doing the work of Storekeeper. There were as many as 13 pay-scales. The Pay Commission, therefore, observed that there was need for rationalisation of the designations and pay-scales for fairly comparable posts in the Stores Department. The Pay Commission, therefore, recommended for rearrangement of categories of employees working as Storekeepers and suggested 5 pay-scales in place of 13 pay-scales and one of the old 13 pay-scales of Storekeepers was Rs. 200-310. The Pay Commission recommended the revised pay-scale of Rs. 330-560 for the pay-scale of Rs. 200-310 and other three pay-scales. In view of these recommendations made by the 2nd Pay Commission, the State Government accorded sanction to revise the pay-scale of the post of Storekeeper of the Forensic Science Laboratory from the existing pay-scale of Rs. 200-310 to Rs. 330-560. This revision of pay-scale was made and given effect to by virtue of Office Memorandum of Home Department dated 19th October 1976. A contention was therefore urged that the post of Storekeeper under Forensic Science Laboratory should be equated with the post of Storekeeper in the Drugs Control Laboratory under the Joint Director (Testing), Drugs Laboratory, Baroda and in the Office of the Deputy Director of Cottage Industries, Baroda. Pay-scales of these posts were revised by the 2nd Pay Commission to Rs.

425-700. It was, therefore, contended that since the nature of duties and the responsibilities burdened by them are similar and prototype, they should not be deprived of the pay-scale recommended by the 2nd Pay Commission. This Court, in the case of D.C. Pandya (Supra), after having agreed to the principle of 'equal pay for equal work' as enunciated by the Hon'ble Supreme Court of India in the case of Randhir Singh vs. Union of India, AIR 1982 SC 879, allowed the petition and given the directions reproduced hereinabove. The petitioners have therefore strongly urged in this petition that the State Government and/or the concerned department must be directed to grant the benefit of revision of pay-scales from time to time and to accord difference of pay-scale with 12% interest as there was already a judgment which is laid down by this Court against the respondent.

6. The petition was admitted way back on 1-9-1989. Though appearance was filed on behalf of the respondent, no affidavit-in-reply is filed till this date.

7. Heard Mr. M.D. Rana, learned advocate appearing for the petitioners and Mr. U.R. Bhatt, learned AGP appearing for the respondent No.1. Mr. Rana has heavily placed reliance on the judgment of this Court in the case of D.C. Pandya in Special Civil Application No. 3431 of 1980 decided on 2nd February 1984. The concluding Para of the said judgment is very clear and it is not confining to merely the petitioner in that case. The following directions are important to be noted here :

"The respondents are directed to revise the pay-scale of the post of Storekeeper of Forensic Science Laboratory to Rs. 425-700 from the date the post was created."

The above directions are not merely in connection with the petitioner in that petition but the general directions are given by this Court. The subsequent directions in the said Para, ofcourse, relate to the petitioners and they are of consequential in nature. The subsequent directions were to the effect that the petitioners were to be placed in the revised pay-scale from the date of his appointment to the said post and fixation of his pay accordingly and the payment of the difference of salary and all other monetary benefits payable to the petitioners on the basis of the said revised pay-scale. The respondent authorities, therefore, cannot brush aside the representations made by the petitioners by saying that the judgment given by this Court in the case of D.C. Pandya is applicable to him

only and the benefit of revised pay-scale cannot be granted to the present petitioners.

8. I am, therefore, of the view that the respondent authorities are not justified in rejecting the representations made by the petitioners on the basis of the judgment delivered by this Court in the case of D.C. Pandya. The respondent authorities should have considered the representation in the light of the observations made by this Court and in the light of the principles laid down in the said judgment. I, therefore, set aside the order, produced at Annexure "B", passed by the respondent authorities with a direction that the respondent authorities should consider the representation which was already made earlier and take appropriate decision on the said representation, keeping in mind the law laid down by this Court in the case of D.C. Pandya (Supra), within the period of three months from today. If the representation is not on record, the petitioners are directed to make a fresh representation before the respondent authorities within one month from today and the said representation shall be decided by the respondent authorities, after according necessary opportunity of being heard in the matter within the aforesaid period. It is made clear that if the petitioners are aggrieved by the decision that may be taken by the respondent authorities, it is open for them to challenge the said decision before the appropriate forum.

9. With the above observations, this Special Civil Application is allowed. Rule is made absolute to the above extent with no order as to costs.

rmr. [K.A. Puj, J.]